

The Honorable MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

A.B., by and through her next friend
CASSIE CORDELL TRUEBLOOD, et al.,

Plaintiffs,

v.
WASHINGTON STATE DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,
et al.

Defendants.

NO. 14-cv-01178-MJP

STIPULATION #2 RE:
EVIDENTIARY HEARING
BEGINNING MARCH 28, 2023

I. STIPULATION

Dr. Keri Waterland is a witness who will be presenting live testimony in the evidentiary hearing commencing on March 28, 2023. In order to further narrow the necessary presentation of testimony and evidence at the upcoming hearing, and in recognition that some of the facts and background is not substantially in dispute between the Parties, the Parties hereby stipulate that Dr. Keri Waterland testifies as follows:

A. Introduction and Qualifications

1. I am the Washington State Health Care Authority's (HCA) Division Director for the Division of Behavioral Health and Recovery (DBHR), since May of 2019.

1 2. I hold a Doctorate in Forensic Psychology with an emphasis in public policy and
 2 law from Alliant International University, California School of Forensics, as well as Master's
 3 degrees in Counseling, Forensic Psychology, and Organizational Behavior from Alliant
 4 International University and St. Martin's University.

5 3. I serve as the appointing authority for DBHR and report directly to the Director
 6 of the HealthCare Authority. As Director, I am an authorized representative of the Authority.
 7 I am responsible for providing executive leadership, overall direction, and strategic vision to
 8 the state and HCA for the community behavioral health system. I am responsible for
 9 administering HCA's community mental health, substance use disorder, and problem gambling
 10 service delivery systems (behavioral health). These programs serve families and adults
 11 experiencing severe and persistent mental illness, substance use disorder, or with a
 12 combination of these needs.

13 4. Additionally, I am the Single State Agency (SSA) representative responsible for
 14 the administration of the State substance use disorder and mental health programs on behalf of
 15 the Health Care Authority. This includes administration of federal grants and representing the
 16 HCA in national associations. I also oversee the administration of HCA-owned elements of the
 17 *Trueblood* Contempt Settlement Agreement and their respective programs, including the
 18 Outpatient Competency Restoration Program (OCRP), Forensic HARPS, Forensic PATH,
 19 enhancements to Crisis Triage and Stabilization Facilities, Mobile Crisis Response, and
 20 Enhanced Peer Support.

21 5. Prior to my current position, I worked for the Washington State Senate for two
 22 legislative sessions, working with the Human Services, Reentry and Rehabilitation Committee.
 23 Prior to my work with the Senate, I served in a variety of clinical and executive administrator
 24 positions with the Department of Social and Health Services, and the Department of Corrections.

1 **B. Background to Current System – Structure**

2 6. The community health system is the network of providers and services that are
 3 embedded into the communities we all live and work in. The health care system is structured in
 4 this manner to remove distance and other geographic barriers for those who need care. A key
 5 component of community health is integration. Integration is the practice of treating patients
 6 holistically and, whenever possible, providing for physical and mental health care by the same
 7 service provider. Integration is a newer medical concept and the State of Washington has fully
 8 integrated its Medicaid managed care benefits only in the past few years. Although it is too early
 9 to have supporting data, it is believed that the integration of community health will lead to better
 10 physical and mental health outcomes for the citizens of Washington state.

11 7. The HCA provides for community health in a few ways. HCA normally contracts
 12 with Managed Care Organizations (MCOs) and Behavioral Health Administrative Service
 13 Organizations (BH-ASOs) who then contract with providers who have direct contact with
 14 patients. However, in some cases, HCA contracts directly with providers. Some examples of
 15 HCA contracting directly with providers are: Forensic Path, Forensic Harps and Outpatient
 16 Competency Restoration Programs (OCRP) as well as HCA contracted 90 – 180 day beds.

17 8. There is a continuum of care for those who need behavioral health services. This
 18 continuum general starts with the least intrusive such as outpatient counselling/treatment,
 19 prescription medication and management, and group counseling. The continuum of care also
 20 includes services for those who have more complex care needs care (PACT) or urgent and
 21 emergent care through crisis services, inpatient treatment, and commitment through the
 22 Involuntary Treatment Act.

23 **C. Diversion of Class Members – Providing Services Prior to Arrest**

24 9. The HCA is working towards building out the overall community mental health
 25 system and the services it provides. One of the priorities is to ensure that all people have access
 26 to care well before they reach a behavioral health crisis point. We believe this strategy is best

1 for all people of Washington State and will help prevent a mental health crisis resulting in arrest
 2 and class membership.

3 10. Although HCA is trying to raise the level of care for all citizens, it also promotes
 4 a number of programs that are geared toward those who are most likely to become class members
 5 or those who have become class members. These programs include 988, Mobile Crisis
 6 Responders, Crisis Stabilization Facilities, FHARPS, PATH and FPATH, PACT, and AOT.

7 11. The 988 program is an emergency contact that is confidential, free and available
 8 for those suffering from a mental health, substance use, or suicidal crisis. This program has been
 9 implemented to enhance and expand behavioral health crisis response and suicide prevention
 10 services for all people in Washington State.

11 12. Mobile Crisis Response is a service offering community-based interventions.
 12 The crisis response team may offer a variety of services based upon the needs of the individuals
 13 including: Triage/screening, including explicit screening for suicidality and risk of harm to
 14 others; responding without law enforcement accompaniment unless necessary; assessing for risk
 15 and opportunities to resolve the crisis in the least restrictive setting; developmentally appropriate
 16 de-escalation/resolution; peer support; coordination with medical and behavioral health services;
 17 and crisis planning and follow up.

18 13. Crisis Triage and Stabilization Facilities provide crisis stabilization services and
 19 help divert people from emergency departments or inpatient hospitalization. These facilities
 20 are a resource for people experiencing a crisis and allow for a safe place for their symptoms to
 21 be resolved. They are also a resource for first responders who may encounter individuals
 22 experiencing a behavioral health crisis. Crisis triage and stabilization facilities are designed to
 23 act as a specialized and accessible treatment option for these individuals. As part of the roll-out
 24 of *Trueblood* Contempt Settlement Agreement elements, HCA also added a small amount of
 25 funding for crisis housing interventions to these facilities in the phased regions. Utilization of
 26

1 these funds requires crisis facility staff to assess people exiting a facility for eligibility in
 2 multiple longer-term housing programs including FHARPS.

3 14. FHARPS provides housing subsidies and residential supports to *Trueblood* class
 4 members and potential class members. The program is modelled after the traditional HARPS
 5 program and includes certified peer counselors on each of their teams, a staffing model which
 6 has been proven to help foster engagement with people who are eligible for HARPS subsidies
 7 and support services. The goal of the program is to help participants overcome barriers, find
 8 and maintain housing. In order to more robustly focus on serving people who find themselves
 9 at the intersection of behavioral health and the law, people meet eligibility through a variety of
 10 ways including eligibility for FPATH, an order for OCRP, or discharge from a crisis
 11 stabilization facility with recent contact with law enforcement.

12 15. The Projects for Assistance in Transition from Homelessness (PATH) program
 13 assists individuals in accessing housing, mental health services, substance use treatment,
 14 disability benefits, and other services to stabilize them and facilitate recovery. Persistent and
 15 consistent outreach and providing services at the individual's pace are important steps to engage
 16 people with serious mental illness who are homeless. Per the federal legislation PATH 'eligible'
 17 means that an individual has a serious mental illness, or serious mental illness and substance use
 18 disorder, and is experiencing homelessness or is at imminent risk of becoming homeless.

19 16. FPATH teams are targeted specifically toward *Trueblood* class members and are
 20 multidisciplinary in nature. These teams include certified peer counselors who have lived
 21 experience in behavioral health recovery, as well as outreach workers, housing specialists and
 22 mental health professionals. These teams provide outreach to people in the community and in-
 23 reach to people in jails to identify eligible participants, build relationships with people, and help
 24 connect them with supports including housing, transportation and health care services. FPATH
 25 teams not only provide outreach, but also provide intensive case management services based on
 26 each person's unique needs and barriers. These teams work collaboratively with their regional

1 *Trueblood* Contempt Settlement Agreement element partners who provide FHARPS, OCRP, and
 2 Forensic Navigator services. When appropriate, the program offers housing support including
 3 help securing and maintaining housing, transportation assistance, support for accessing health
 4 services, and training on independent living skills.

5 17. The Program for Assertive Community Treatment (PACT) is designed for
 6 people who have the most severe and persistent mental illnesses, who have severe symptoms
 7 and impairments, and who have not benefited from traditional outpatient programs. This
 8 program serves individuals with severe and persistent mental illness who also experience
 9 difficulties with daily living activities. These individuals are often among those who are
 10 homeless or are in jails and prisons. Services are delivered by a group of mental health staff
 11 who work as a team with services being individually tailored to the goals and preferences of
 12 each individual. PACT teams are mobile and deliver services in community locations rather
 13 than expecting the individual to come to the program.

14 18. Assisted Outpatient Treatment (AOT) uses an involuntary treatment court order
 15 to provide outpatient behavioral health treatment to adults with severe mental illness or
 16 substance use disorder. Those receiving treatment in this way must meet specific criteria,
 17 including factors like a history of hospitalization, or violent acts, as well as substantial
 18 deterioration or the need to prevent substantial deterioration or relapse. Assisted outpatient
 19 treatment combines supportive behavioral health services as well as court oversight and the
 20 order may be up to 18 months in length.

21 **D. Funding**

22 19. The funding for behavioral health services comes from a variety of sources
 23 including the State of Washington, Medicaid, and various grants.

24 20. The HCA, DSHS, and Commerce have invested more than \$1.7 billion dollars in
 25 the area of behavioral health since July 2019.

1 21. Nearly all class members are Medicaid eligible and there has been a 7% increase
 2 in payment to service providers for Medicaid services. There was an additional 7% increase to
 3 all behavioral health providers in January 2023. There has also been an additional \$100 million
 4 dollars disbursed to behavioral health providers as workforce stabilization relief funds.

5 **E. Workforce Development**

6 22. The HCA does not have many opportunities to directly fund or promote
 7 workforce development in terms of professions because HCA's role is largely contained by
 8 Medicaid. However, in addition to working toward the increased rate payments to Medicaid
 9 providers and disbursing \$100 million to behavioral health providers the HCA has done what it
 10 can to ensure sufficient workforce for *Trueblood* activities. These efforts include: a recruitment
 11 campaign across multiple media platforms with a landing page at startyourpath.org focused on
 12 increasing awareness of and educating about the benefits of working in behavioral health,
 13 including, pathways to behavioral health professions.

14 23. Investments in workforce technical assistance and continuing education,
 15 including supporting yearly collaboration and training events and opportunities that develop
 16 workforce, with many of the events having a focus on Diversity, Equity, and Inclusion, those
 17 served who may live in rural areas, and/or who belong to special communities. A few examples
 18 of this work include Peers to PhD, a workforce development summit for addiction professionals
 19 first episode psychosis community education for early intervention learning event, the homeless
 20 outreach academy, the University of Washington Behavioral Health Institute's "Re-Imagining
 21 Behavioral Health in the 21st Century: Race, Equity, and Social Justice" conference, co-
 22 occurring disorders conference, and a wide variety of professional trainings that support
 23 workforce across the continuum.

24 24. HCA invests in the University of Washington Behavioral Health Institute model
 25 programs to address the treatment needs of individuals with substance use disorder and co-
 26 occurring disorders to provide training, technical assistance, and consultation to help improve

the delivery of evidence based practices and promising practices, evaluate behavioral health inequities, and develop a learning management system to support access to training for publicly funded behavioral health agencies, and training and provider technical assistance to law enforcement and correction agencies.

25. The HCA also convened and oversaw a workgroup to develop recommendations for obtaining rate enhancements for teaching clinics. This includes recommending enhanced rates for behavioral health agencies training and supervising students and those seeking their certification or license.

26. The HCA has provided supports to the workforce to meet for increased demand of tele behavioral health services by distributing HIPPA compliant zoom licenses, laptop computers, and cell phones to providers. HCA also provided a rapid statewide behavioral health training and technical assistance to support behavioral health agencies providing clinical engagement over telehealth.

27. HCA has increased the investment in training and certification of certified peer specialists with a history of having trained over 6,000 peer specialists. Currently HCA invests \$4.4 million in the certified peer workforce, with additional \$380,000 general fund state investment focused on training and certification of Black, Indigenous, and People of Color recruitment to the peer workforce.

RESPECTFULLY SUBMITTED this 27th day of March 2023.

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CERTIFICATE OF SERVICE

I, *Christine Townsend*, state and declare as follows:

I am a citizen of the United States of America and over the age of 18 years and I am competent to testify to the matters set forth herein. I hereby certify that on this 27th day of March 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 27th day of March 2023, at McCleary, Washington.

Chen Tsongh

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Legal Assistant